

Ai GROUP SUBMISSION

Fair Work Commission

**Annual Wage Review 2022 – 2023
Further Submission – Copied State Awards**

27 April 2023



1. Introduction

The Australian Industry Group (**Ai Group**) files this submission in response to directions issued by the Fair Work Commission (**Commission**) on 18 April 2023, following a hearing before the Expert Panel on 13 April 2023 (**Hearing**).

2. Summary of Ai Group's Position

Since the Hearing, Ai Group has consulted various members who we identified as potentially being impacted by the outcome of these proceedings. As a consequence of that consultation process:

- (a) One member has advised that it is covered by a copied State award (**CSA**). We return to this at section 3 of this submission.
- (b) Some other members advised that although they were, until recently, covered by a CSA, that is no longer the case because, for example, an enterprise agreement now covers the employer and relevant employees instead.

In the period of time available, we have sought to identify as many CSAs as practicable, to assist the Commission with its consideration of the relevant matters arising in these proceedings. Nonetheless:

- (a) It remains the case that other Ai Group members may be covered by CSAs. It is not feasible, in a practical sense, to exhaustively canvas all of our members in order to ensure that every such CSA has been identified.
- (b) It is unlikely, if not impossible, that industrial parties, separately or collectively, will be in a position to exhaustively identify all CSAs presently in operation.

Accordingly, it remains our position that the Commission should not decide to adjust wage rates in CSAs generally, for the reasons articulated in our earlier written submissions and during the Hearing. Rather, it should only consider those CSAs that are specifically put before it.

3. A CSA Covering Transdev

In relation to the CSA mentioned at paragraph (a) above, we have set out the requisite details below:

- (a) **Name of the State award:** *State Transit Authority Bus Engineering and Maintenance Enterprise (State) Award 2020.*
- (b) **Code number of the State award:** 1900.

- (c) **The event that led to the CSA coming into operation:** In October 2019, the New South Wales Government announced a competitive tender process for Sydney metropolitan bus services. Following that process, it was announced that Transdev John Holland Buses (NSW) Pty Ltd (**TJHB**) had been awarded the Greater Sydney Region 9 bus contract by Transport for New South Wales. TJHB is an integrated joint venture partnership between Transdev Australasia (75%) and John Holland (25%).

As a consequence, a transfer of business within the meaning of s.768AD of the *Fair Work Act 2009 (Act)* took effect on 4 April 2022. This in turn resulted in the aforementioned State award becoming a CSA and covering TJHB and the ‘*transferring employees*’ (as defined by s.768AE(1) of the Act).

- (d) **The employer bound by the CSA:** TJHB.



ABOUT THE AUSTRALIAN INDUSTRY GROUP

The Australian Industry Group (Ai Group®) is a peak employer organisation representing traditional, innovative and emerging industry sectors. We are a truly national organisation which has been supporting businesses across Australia for nearly 150 years.

Ai Group is genuinely representative of Australian industry. Together with partner organisations we represent the interests of more than 60,000 businesses employing more than 1 million staff. Our members are small and large businesses in sectors including manufacturing, construction, engineering, transport & logistics, labour hire, mining services, the defence industry, civil airlines and ICT.

Our vision is for thriving industries and a prosperous community. We offer our membership strong advocacy and an effective voice at all levels of government underpinned by our respected position of policy leadership and political non-partisanship.

With more than 250 staff and networks of relationships that extend beyond borders (domestic and international) we have the resources and the expertise to meet the changing needs of our membership. We provide the practical information, advice and assistance businesses need. Our deep experience of industrial relations and workplace law positions Ai Group as Australia's leading industrial advocate.

We listen and we support our members in facing their challenges by remaining at the cutting edge of policy debate and legislative change. We provide solution-driven advice to address business opportunities and risks.

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